REMARKS/ARGUMENTS

1. Claims 13 and 15-18 Comply with 35 U.S.C. §§112, par. 2 and 101

The Examiner rejected claims 1-15 on the grounds that the base claims 1, 6, and 11 are indefinite (35 U.S.C. §112, par. 2). In particular, the Examiner found that the limitations concerning "determining if the item described in the user configuration has been updated...." and "retrieving the updated item..." were confusing. (Fourth Office Action, pg. 3) Applicants amended claims 1, 6, and 11 to clarify the meaning of these limitations to overcome the rejection. The amendment makes clear that if there is an updated item for an item, that updated item is retrieved.

The Examiner further found that the use of the "may be built" language was indefinite. Applicants amended claims 1, 6, and 11 to remove this language to overcome the indefiniteness rejection.

The Examiner further rejected claim 11 as failing to point out and distinctly claim the subject matter (35 U.S.C. §112, par. 2) and as directed to non-statutory subject matter (35 U.S.C. §101). (Fourth Office Action, pgs. 3-5) During the phone interview, Applicants discussed with the Examiner an amendment to clarify claim 13 and dependent claims, which the Examiner indicated could help overcome these rejections. Applicants traverse for the reasons discussed below with respect to the claims, amended as discussed during the phone interview. .

Applicants amended claim 11 to clarify that the system is comprised of a remote and local data processing systems and code executed by each to perform specific operations. Applicants submit that amended claim 11 is a statutory system claim. Applicants further amended the dependent claims 12-15 to make the dependent limitations consistent with respect to the amendments to the base claim. According to the Manual of Patent Examination and Procedure (MPEP), "[i]f a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product." Claim 11 defines such a system claim.

The Examiner cited Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat App. & Inter 1990) in finding that claim 11 does not comply with both Sections 112 and 101 because it "claims both an apparatus and the method steps of using the apparatus" and "overlaps two different statutory classes". (Fourth Office Action, pgs. 4-5). Applicants traverse and submit that Lyell is not applicable to amended claim 11 in this case.

In Lyell, the claim-at-issue recited "An automatic transmission tool in the form of a workstand and method for using same comprising". Thus, the Lyell claim included "method for using" language in the preamble of an apparatus claim. The ruling in Lyell is not applicable to amended claim 11 of the current application because amended claim 11 does not include a "method for" statement in the preamble of the system claim. Instead, claim 11 recites a system claim comprising certain components listed in the body of the claim. For this reason, the ruling of Lyell is not applicable.

For the above reasons, Applicants submit that the amended claims overcome the rejections under Sections 112, par. 2 and 101.

2. Claims 1-15 are Patentable Over the Cited Art

The Examiner rejected claims 1-15 as obvious (35 U.S.C. §103) over Hayes (U.S. Patent No. 6,205,476) in view of Kenner (U.S. Patent No. 6,314,565). Applicants traverse.

Claims 1, 6, and 11 concern updating an application program for execution by a particular user and require: defining a user configuration of the application program corresponding to the particular user of the application program at the remote data processing system, the user configuration describing an item from which the application program may be is built; determining that the user configuration corresponds to the particular user; downloading the user configuration to the local data processing system in response to determining that the user configuration corresponds to the particular user; determining if the item described in the user configuration has been updated with an updated item; retrieving the updated item if there is the updated item for the item has been updated; and building the application program with the updated item.

Applicants amended claims 1 and 11 to clarify the operations of the local and remote data processing systems and local code and remote code. The claim requirements concerning the operations performed by the local and remote data processing system components are described on pages 12-14 of the Application. Applicants further amended the claims to overcome the Section 112 and 101 rejections as discussed above.

The Examiner cited cols. 12 and 22 of Hayes as teaching the claim requirements concerning defining the user configuration, determining that the user configuration corresponds to the particular user, and then downloading the user configuration to the local data processing system.

The cited col. 22 of Hayes mentions storing the configuration preferences for the end user on the server and downloading a set of preferences stored for a given context to a workstation when requested by a user.

Although the cited Hayes mentions storing configuration preferences on a server and downloading to a workstation, nowhere does the cited Hayes anywhere teach the claim requirement of downloading a user configuration to a local data processing system and then determining if an item described in the user configuration has been updated, and if so retrieve the updated item and build the application program with the updated item.

The Examiner cited FIG. 2, steps 220 and 230 and col. 8, lines 30-41 of Kenner as teaching the claim requirements of determining if the item in the configuration has been updated, retrieving the updated item, and then building the application with the updated item. (Fourth Office Action, pg. 6) Applicants traverse.

The cited FIG. 2 discusses a process where a user system registry is queried to identify installed codecs. (Kenner, col. 7, lines 5-15). At step 220, a determination is made whether there are codecs to update. The user is given the option to install codecs and the codec is downloaded at step 230. (Kenner, col. 7, lines 48-55; col. 8, lines 18-30).

Although the cited Kenner discusses determining and downloading updates/codecs to a program, nowhere does the cited Kenner anywhere teach or suggest that a determination is made of whether an item in a user configuration downloaded from a remote system includes an update and retrieving the updated item, so that the application program is built with the updated item.

The Examiner found that modifying Hayes with Kenner teaches the claimed invention. Applicants traverse because Kenner concerns downloading updates to codecs indicated in a local registry file on a system. The claims require that the determination and retrieval is performed with respect to an item in a user configuration defined and downloaded from a remote data processing system. Kenner teaches away from this requirement, because in Kenner a system registry is queried, which is a local system configuration file, not a user configuration defined by the remote data processing system and downloaded from the remote data processing system as claimed.

Accordingly, claims 1, 6, and 11 are patentable over the cited art, because the cited art in combination and alone does not teach or suggest the combination of claim requirements.

Claims 2-5, 7-10, and 12-14 are patentable over the cited art because they depend from one of claims 1, 6, and 11. The following dependent claims provide additional grounds of patentability over the cited art.

Claims 2, 7, and 12 depend from claims 1, 6, and 11 and further require encrypting, by the remote code, and storing the user configuration in a manifest file, wherein the user configuration is downloaded to the local data processing system in the manifest file, and wherein determining that the user configuration corresponds to the particular user comprises authenticating the particular user in response to the particular user requesting the application program; and decrypting the manifest file to produce a decrypted user configuration in response to the user authentication, wherein the decrypted user configuration is used to determine if the item described in the user configuration has been updated.

Applicants amended claims 2, 7,and 12 to clarify the operations performed by the remote code/data processing system and local code/data processing system.

The Examiner cited col. 1, lines 13-21 of Hsu (U.S. Patent No. 5,894,515) as teaching the claim requirements concerning encrypting and decrypting the manifest file. (Fourth Office Action, pg. 6) Applicants traverse and submit that the cited art does not teach or suggest the claimed combination.

The cited col. 1 of Hsu discusses encryption and decryption in general and the use of encryption to protect data from an unauthorized user. Nowhere does the cited Hsu anywhere teach or suggest storing the user configuration in a manifest file and then decrypting the manifest file to produce a decrypted user configuration that is used to determine whether the item described in the user configuration has been updated.

Further, nowhere does the cited Kenner and Hayes teach storing the user configuration in a manifest file that is decrypted in response to user authentication to determine whether the item described in the user configuration has been updated. Kenner discusses how a registry file is queried to identify installed codecs and their version, where applications post and retrieve registry information to determine or alter system and software configuration data. (Kenner, col. 7, lines 8-12 and 17-32).

Nowhere in the cited Kenner is there any teaching or suggestion of storing the user configuration in a manifest file and then decrypting the manifest file in response to user authentication to produce a decrypted user configuration that is used to determine whether the item described in the user configuration has been updated.. There is no mention in the cited col.

7 of storing user configuration information or the registry file in a manifest that is decrypted in response to user authentication and used to determine whether the item described in the user configuration has been updated so the updated item may be retrieved and used to build the application.

The Examiner then cited a fourth reference, col. 6, lines 55-58 of Stedman (U.S. Patent No. 6,262,726), as teaching the claim requirement of authenticating the particular user. The cited col. 6 of Stedman mentions that to initialize the operating system, the user must enter his or her username and password, and that configuration files keep track of the user, and the desktop layout for the user.

The cited Kenner discusses how a registry file is queried to determine codecs to install and Stedman discusses user authentication. However, nowhere in the cited combination of Kenner and Stedman is there any teaching or suggestion of the claim requirement of storing the user configuration in a manifest file and then decrypting the manifest file in response to user authentication to produce a decrypted user configuration that is used to determine if the item described in the user configuration has been updated.

Moreover, even if one were to modify the systems of Kenner and Stedman with Hsu to provide encryption, the proposed modification still does not teach the claim requirements. For instance, modifying the cited Kenner with encryption would provide an encrypted registry file having information used to install a codec. Modifying the cited Stedman with encryption would provide some encrypted authentication. All the combination of references still nowhere teach or suggest the sequence of claim requirements of storing the user configuration in a manifest file, which is encrypted, and then decrypting the manifest file in response to user authentication to produce a decrypted user configuration that is used to determine if the item described in the user configuration has been updated so that the updated item may then be retrieved and used to build the application program.

Accordingly, claims 2, 7, and 12 provide additional grounds of patentability over the cited art because the additional requirements of these claims are not taught or suggested in the cited art.

Claims 3, 8, and 13 include many of the additional requirements of claims 2, 7, and 12 and thus provide additional grounds of patentability for the reasons discussed with respect to claims 2, 7, and 12.

Claims 4, 9, and 14 depend from claims 3, 8, and 13 and further require downloading data from the remote data processing system to the local data processing system according to the decrypted user configuration. Applicants amended these claims to recite that the operations are performed by the local code/data processing system. The additional requirements of these claims are disclosed on pgs. 12-14 of the Application.

The Examiner cited a combination of Hayes-Kenner-Hsu as teaching the additional requirements of these claims. However, nowhere does the cited combination teach or suggest downloading data from a remote data processing system to local according to decrypted user configuration information.

Accordingly, claims 4, 9, and 14 provide additional grounds of patentability over the cited art because the additional requirements of these claims are not taught or suggested in the cited art.

Claims 5, 10, and 15 depend from claims 4, 9, and 14 and further require authenticating the particular user in response to the particular user requesting the application program, wherein the data is downloaded from the remote data processing system in response to the user authentication. Applicants amended these claims to recite that the operations are performed by the remote code/data processing system. The additional requirements of these claims are disclosed on pgs. 12-14 of the Application.

The Examiner cited Hsu's discussion of decryption and combined with Kenner. Applicants submit that nowhere does the cited Hsu-Hayes-Kenner teach or suggest authenticating a particular user in response to the user requesting an application and downloading data according to a stored user configuration that was previously decrypted and used to determine if updated items need to be retrieved.

Accordingly, claims 5, 10, and 15 provide additional grounds of patentability over the cited art because the additional requirements of these claims are not taught or suggested in the cited art.

3. The New Claims 16-21 are In Condition for Allowance

Claims 16, 18, and 20 depend from claims 1, 6, and 11 and further require performing, by the remote code/data processing system an authentication of the particular user in response to the particular user requesting the application program, wherein the user configuration is determined and downloaded in response to authenticating the particular user, and wherein the remote code

determines if the item described in the user configuration has been updated and retrieves the updated item in response to authenticating the particular user.

The additional requirements of these claims are disclosed on pg. 14, lines 1-5 of the Application.

Applicants submit that these added claims 16, 18, and 20 are patentable over the cited art because they depend from claims 1, 6, and 11, respectively, and because the additional requirements of these claims in combination with the base claims provide further grounds of patentability over the cited art.

Claims 17, 19, and 21 depend from claims 1, 6, and 11, respectively, and further require performing, by the local code/data processing system, a local logon to perform an authentication of the particular user, wherein the local code determines if the item described in the user configuration has been updated and retrieves the updated item in response to authenticating the particular user.

The additional requirements of these claims are disclosed on pg. 14, lines 7-12 of the Application.

Applicants submit that these added claims 17, 19, and 21 are patentable over the cited art because they depend from claims 1, 6, and 11, respectively, and because the additional requirements of these claims in combination with the base claims provide further grounds of patentability over the cited art.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1-21 are patentable over the art of record. Applicants submit herewith the fee for the added claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0460.

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The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: February 9, 2005

By: _____
David W. Victor
Registration No. 39,867

Please direct all correspondences to:

David Victor
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212
Tel: 310-553-7977
Fax: 310-556-7984